

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - FLINT**

**IN THE MATTER OF:**

BRETT SVATORA,

Debtor.

Case No. 14-30028-DOF  
Honorable DANIEL S. OPPERMAN  
Chapter 13

648 Olde English Circle  
Howell, MI 48855  
XXX-XX-5043

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF CREDIT ACCEPTANCE  
CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

Credit Acceptance Corporation ("Movant") by and through counsel, KILPATRICK & ASSOCIATES, P.C., states:

1. The Debtor ("Debtor" as used herein shall include both Debtors in a joint case) filed a voluntary Chapter 13 petition on January 7, 2014.
2. On the Petition Date the Debtor was indebted to Movant in the amount of \$7,104.31 (plus interest, fees, and costs) relating to a 2007 Ford Focus (VIN: 1FAHP354N87W217508) (Acct No.: 4070) (the "Vehicle").
3. The Vehicle listed in Paragraph 2 was purchased on a Retail Installment Sale Contract (the "Contract") pursuant to which Movant perfected its security interest in the Vehicle. (A copy of the Contract and proof of perfection are attached hereto.)
4. Upon information and belief, no other parties have an interest in the Vehicle.
5. The approximate value of the Vehicle is \$5,100.00, based on the NADA Official Used Car Guide.
6. Movant is entitled to termination of the automatic stay to enforce its rights with respect to the Vehicle pursuant to 11 U.S.C. § 362(d)(1), §361(d)(2), § 365(p) and/or § 362(h) for the following reason(s):
  - (a) The Plan requires monthly payments to the Chapter 13 Trustee from the Debtor; the Debtor is currently in \$2,712.50 past due.
  - (b) The confirmed Plan requires monthly payments from the Trustee to Movant, the last payment was in July 2015.

7. Counsel for Movant sought concurrence in the relief sought from opposing counsel on October 9, 2015; however, concurrence was not obtained.

8. After the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or repair the Vehicle, and therefore Movant requests that the Court waive the stay of the order terminating the stay under Fed.R.Bankr.P. 4001(a)(3) so that Movant may proceed to take possession of the Vehicle.

**WHEREFORE**, Movant requests the Court to enter the Order attached as Exhibit 1, terminating the stay, to permit Movant to exercise any and all rights with respect to the Vehicle, and to grant such other relief as may be appropriate and just.

Respectfully submitted,  
**KILPATRICK & ASSOCIATES, P.C.**

A handwritten signature in black ink, appearing to read 'Richardo I. Kilpatrick', is written over a horizontal line. To the left of the signature, the letters '/s/' are handwritten.

RICHARDO I. KILPATRICK, ESQ. (P35275)  
LEONORA K. BAUGHMAN, ESQ. (P33534)  
Attorney for Creditor Credit Acceptance Corporation  
903 North Opdyke Road, Suite C  
Auburn Hills, MI 48326  
ecf@kaalaw.com  
(248) 377-0700

Dated: October 13, 2015

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
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**ORDER GRANTING MOTION FOR RELIEF FROM THE AUTOMATIC STAY  
ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

This matter having come before the Court on Credit Acceptance Corporation's ("Movant") Motion for Relief from the Automatic Stay, filed by and through counsel, KILPATRICK & ASSOCIATES, P.C.; notice and service having been properly effected; no objection to the Motion having been filed, or if filed same having been overruled or withdrawn; Movant, being the holder of a valid, perfected and unavowed security interest in a 2007 Ford Focus (VIN: 1FAHP354N87W217508) (Acct. No.: 4070) (the "Vehicle") to secure a claim in the amount of \$7,104.31; the Vehicle having an approximate value of \$5,100.00; no other party having an interest in the Vehicle; and the Court being otherwise fully advised in the premises;

**IT IS HEREBY ORDERED** that the automatic stay as provided by 11 U.S.C. § 362, is hereby vacated and terminated as it applies to the enforcement by Movant of any and all rights with respect to the Vehicle.

**IT IS FURTHER ORDERED** that the stay under Fed.R.Bankr.P. 4001(a)(3) does not apply to this Order.

**IT IS FURTHER ORDERED** that if upon final disposition of the Vehicle by Movant any funds remain after payments of any and all amounts which are due to Movant, such balance shall be paid to the Trustee for the benefit of the estate.

**EXHIBIT "1"**

UNITED STATES BANKRUPTCY COURT  
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**NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY  
ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

Creditor, Credit Acceptance Corporation has filed papers with the Court for relief from the automatic stay.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant relief from the automatic stay, or if you want the Court to consider your views on the Motion, within fourteen (14) days after the date of this Notice, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at<sup>1</sup>: United States Bankruptcy Court, 226 West Second Street, Flint, Michigan 48502.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to:

Richardo I. Kilpatrick, Attorney for Creditor, Credit Acceptance Corporation, Kilpatrick & Associates, P.C., 903 North Opdyke Road, Suite C, Auburn Hills, Michigan 48326;

Office of the U.S. Trustee, 211 West Fort Street, Suite 700, Detroit, Michigan 48226;


Carl L. Bekofske, Chapter 13 Trustee, 400 North Saginaw Street, Suite 331, Flint, MI 48502;

Brett Svatora, Debtor, 648 Olde English Circle, Howell, MI 48855; and

Thomas Hensel, Jr., Attorney for Debtor, Hensel Law Office, PLLC, 36250 Dequindre Road, Suite 410, Sterling Heights, MI 48310.

2. If a response or answer is timely and served, the Clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time, and location of the hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that Relief.

Respectfully Submitted;  
KILPATRICK & ASSOCIATES, P.C.  
  
/s/ RICHARDO I. KILPATRICK, ESQ. (P35275)  
LEONORA K. BAUGHMAN, ESQ. (P33534)  
Attorney for Creditor, Credit Acceptance Corporation  
903 North Opdyke Road, Suite C  
Auburn Hills, MI 48326  
ecf@kaalaw.com  
(248) 377-0700

Dated: October 13, 2015

<sup>1</sup> Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

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**PROOF OF SERVICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF  
CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001(A)(3)**

KELISHA SMITH certifies that on the 13<sup>th</sup> day of October, 2015, she served a copy of the MOTION FOR RELIEF FROM THE AUTOMATIC STAY ON BEHALF OF CREDIT ACCEPTANCE CORPORATION AND WAIVING FED.R.BANKR.P. 4001 (A)(3), PROPOSED ORDER, NOTICE OF MOTION and this PROOF OF SERVICE, in the above-captioned matter, with the Clerk of the Court using the ECF system which will send notification of such filing upon the following:

Thomas Hensel, Jr.: tom@hensellawoffice.com

Carl L. Bekofske: ECF@flint13.com

Office of the U.S. Trustee: via ECF e-mail

And by depositing same in a United States postal box located in Auburn Hills, Michigan, with the lawful amount of postage fully prepaid thereon, upon the following:

Brett Svatora  
648 Olde English Circle  
Howell, MI 48855

  
/s/ **KELISHA SMITH**, an employee of  
KILPATRICK & ASSOCIATES, P.C.  
903 North Opdyke Road, Suite C  
Auburn Hills, Michigan 48326  
ecf@kaalaw.com  
(248) 377-0700